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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-199510

**DATE:** February 18, 1982

**MATTER OF:** Carlton J. MacDonald - Transfer Expenses -  
Agency Error

**DIGEST:** Employee was transferred at no cost to Government after Federal Aviation Administration (FAA) informed him he had failed training course. Subsequent to transfer FAA determined that employee's training course had been conducted in procedurally flawed manner and that he had not received training to which he was entitled. FAA then returned employee to original duty station but refused to reimburse his earlier transfer expenses. Since employee would not have been transferred but for FAA's error, we conclude that employee is entitled to be reimbursed his travel expenses.

Mr. Kenneth Huston of the Professional Air Traffic Controllers Organization (PATCO), has requested our decision as to whether Mr. Carlton J. MacDonald, an air traffic control specialist, GS-11, is entitled to reimbursement for travel expenses he incurred incident to his transfer to the Ely Flight Service Station, Ely, Nevada. The Federal Aviation Administration (FAA) was served with a copy of PATCO's request for decision, but FAA did not choose to provide us with a report on the matter. Accordingly, in the absence of an objection by the agency, we shall assume jurisdiction under 4 C.F.R. Part 22 (1981) (originally published as 4 C.F.R. Part 21, at 45 Fed. Reg. 55689-92, August 21, 1980, see specifically 4 C.F.R. § 22.7(b) (1981)), and render a decision based on the record submitted by PATCO.

Mr. MacDonald was a developmental air traffic control specialist assigned to FAA's Oakland Air Route Traffic Control Center (ARTCC) at Fremont, California. On or about February 1, 1977, Mr. MacDonald was terminated from his position at the Oakland ARTCC because of unsatisfactory progress in a training program conducted

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under the FAA's National Air Traffic Training Program. When it was determined that Mr. MacDonald was not making satisfactory progress in the training program, he was notified on February 11, 1977, by the Chief, Operations Branch, Oakland ARTCC, of his downgrading and reassignment to the Ely Flight Service Station as follows:

"This pertains to your request for reassignment because of your inability to complete the training program at Oakland Center. You are offered a position at the Ely Flight Service Station, Ely, Nevada, as GS-2152-7, \$13,443 per annum. Relocation will be at no expense to the government. The effective date will be March 13, 1977.

"You will be scheduled for Flight Service Station training at the Academy as soon as possible. Failure to satisfactorily complete the Academy training may result in separation from employment with the Federal Aviation Administration.

"Please sign the enclosed copy of this letter indicating your acceptance and return it to this office for our files."

Mr. McDonald accepted the transfer and on February 19 through February 22, 1977, he traveled by privately owned vehicle at his own expense to Ely Flight Service Station, Ely, Nevada.

Subsequently, on or about March 22, 1977, the Chief, Oakland ARTCC, determined that the training program in question had been conducted in a procedurally flawed manner and that Mr. MacDonald had not received the training to which he was entitled. After the procedural error was discovered, Mr. MacDonald was allowed to return to his position at Oakland ARTCC and re-enter the training program.

Mr. MacDonald requested reimbursement for the travel expenses he had incurred in travelling to Ely, Nevada, prior to the determination that the training program at Oakland ARTCC had been procedurally flawed. Mr. MacDonald's request for reimbursement of \$202 in travel expenses was denied by FAA.

In appealing FAA's denial of Mr. MacDonald's claim, PATCO argues that, since FAA decided that the training program was improperly conducted and Mr. MacDonald was given an opportunity to re-enter the program, FAA has an obligation to reimburse Mr. MacDonald for the travel expenses he incurred as a result of FAA's administrative error. Moreover, PATCO points out that a travel order for travel from Fremont, California, to Ely, Nevada, was issued to Mr. MacDonald retroactively on May 22, 1977, by the then Acting Facility Chief.

In this case, Mr. MacDonald was not issued travel orders prior to his transfer and he was informed in advance that his travel would be at his own expense. The mere absence of travel orders, however, does not preclude reimbursement of otherwise allowable travel expenses. 57 Comp. Gen. 447, 451 (1978). See also Federal Travel Regulations (FTR) (FPMR 101-7, May 1973), para. 1-1.4.

Since we do not have FAA's report on this case, it is not clear why FAA believes that Mr. MacDonald's travel expenses may not be approved after his travel was performed. It appears from the record that FAA believes that once Mr. MacDonald was told he was not entitled to travel expenses under the circumstances of his travel, such a determination could not be modified.

At the time of transfer, both FAA and Mr. MacDonald believed that the transfer was for Mr. MacDonald's convenience or benefit, and not in the Government's interest, because he had failed the training program.

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It is now evident, however, that Mr. MacDonald's transfer to the Ely Flight Service Station was caused by FAA's admitted failure to provide him with proper training.

Mr. MacDonald's request to FAA to transfer him was based on his belief that he had no option but to accept a downgraded assignment. It is evident, however, that Mr. MacDonald would not have requested a transfer to Ely had FAA informed him that there had been a serious error in his training.

In the circumstances of this case, therefore, we find that Mr. MacDonald would not have been transferred but for FAA's error and thus his transfer was not for his personal convenience. Accordingly, Mr. MacDonald is entitled to be reimbursed for his travel expenses incident to the transfer.

*for* Milton J. Ainslie  
Comptroller General  
of the United States